

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 1:20-cr-183

vs.

Hon. Robert J. Jonker
Chief United States District Judge

BARRY GORDON CROFT, JR.,

Defendants.

/

UNOPPOSED MOTION FOR PROTECTIVE ORDER
AND MEMORANDUM IN SUPPORT

May it please the Court, the United States of America moves for a protective order to limit the use and dissemination early discovery materials it will provide in this case. The reasons for the motion are set forth below.

At any time the Court may, for good cause, enter a protective order to restrict discovery or grant other appropriate relief. Fed. R. Crim. P. 16(d)(1). The government intends to produce certain discovery material to counsel for the defendant before the case is presented to a grand jury. The materials include chat messages and audio recordings of discussions between the defendants and FBI confidential human sources (“CHS”) and undercover employees (“UCE”). The materials include names, phone numbers, recognizable voices, and other details from which the CHSs and UCEs could be identified. Such premature identification might reasonably be expected to lead to witness tampering, intimidation and/or retaliation; if not by the defendants themselves, by individuals or groups sympathetic to their perceived aims. In addition, pretrial dissemination of unadmitted evidence could taint the jury pool and create challenges to the selection of an unbiased venire.

Given the volume of materials to be produced in this case, item-by-item search for and redaction of all identifying information would be impractical, unduly burdensome, and time consuming. In addition, such redaction may impede the review and analysis of the discovery materials by defense counsel.

To promote the efficient and timely production of discovery material and to protect sensitive identities contained within the discovery material, the government respectfully requests an order providing that dissemination of the criminal discovery be limited to:

(1) Members of the defense team (co-counsel, paralegals, investigators, litigation support personnel, the defendant, and secretarial staff);

(2) Experts or consultants retained to assist in the preparation of the defense;

(3) Potential witnesses interviewed by the defense team, if it is determined that it is necessary to share or display records to such witnesses for the purpose of preparing the defense of this criminal case; and

(4) The Court in connection with proceedings in this case.

In order to prevent unauthorized re-dissemination, the government also requests the defense not leave unredacted copies of discovery materials with the defendants in pretrial custody, except upon further order by this Court.

Defense counsel has indicated he does not object to the motion.

WHEREFORE, the government respectfully requests that this Court enter the attached proposed Order governing the production and dissemination of discovery material in this case.

Respectfully submitted,

ANDREW BYERLY BIRGE
United States Attorney

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